# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/846,431 | 04/30/2001 | Ari Rosenberg | 12031/1 | 4587 |

7590          09/23/2005

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| EXAMINER |
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| ART UNIT | PAPER NUMBER |
|---|---|
| 3622 | |

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| Office Action Summary | Application No. | Applicant(s) |
|---|---|---|
| | 09/846,431 | ROSENBERG, ARI |
| | Examiner | Art Unit |
| | Arthur Duran | 3622 |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)☒ Responsive to communication(s) filed on <u>04 August 2005</u>.

2a)☐ This action is **FINAL**.        2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)☒ Claim(s) <u>3-28</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>3-28</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

## Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

# DETAILED ACTION

1.      Claims 3-28 have been examined.

## *Response to Amendment*

2.      The Amendment filed on 8/4/05 is sufficient to overcome the <u>Horstmann</u> reference.  A

new prior art reference has been added to the 35 USC 103 rejection.

## *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains.  Patentability shall not be negatived by the
> manner in which the invention was made.

3.      Claims 3-28  are  rejected under 35 U.S.C. ϱ103( a ) as being obvious over  <u>Horstmann</u>

US 6,285,985 (9/4/2001) [US f/d:  4/3/1998] (herein referred to as <u>Horstmann</u>) in view of Gerace

(5,848,396) in view of McElfresh (2003/0149937) and in view of Zustak (2002/0087402).

As per claim 1, <u>Horstmann</u> (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col.

3, ll. 60-67; and whole document) implicitly shows "A method for the presentation of

advertisements, comprising:  providing exposure of an advertising message to a plurality

of viewers; recording an action taken by at least one of said viewers in response to said

advertising message; and providing additional exposure of said advertising message

based on said action."

Horstmann lacks an explicit recitation of claim 1 even though Horstmann

implicitly shows all elements and limitations of claim 1.

It would have been obvious at the time the invention was made to a person having

ordinary skill in the art that the disclosure of Horstman (the ABSTRACT; FIG. 1, FIG.

4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows all the elements

and limitations of claim 1, and it would have been obvious to modify and interpret the

disclosure of Horstmann cited above as implicitly showing all of the elements and

limitations of claim 1, because modification and interpretation of the cited disclosure of

Horstmann would have provided means to *"retrieve advertisements from an*

*advertisement serve and to display them to the user. . . ."* (see Horstmann (col. 2, ll. 1-

10)), based on the motivation to modify Horstmann where the *"advertisements are varied*

*to retain the interest of the user. . . ."* (See Horstmann (col. 2, ll. 5-10)).

As per claim 2, Horstman (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3,

ll. 60-67; and whole document) implicitly shows "A method for the presentation of

advertisements, comprising: providing exposure of an advertising message to a plurality

of viewers; recording a plurality of actions taken by ones of said viewers in response to

said advertising message; and providing additional exposure of said advertising message

to said plurality of viewers based on said plurality of actions."

Horstmann lacks an explicit recitation of claim 2 even though Horstmann

implicitly shows all elements and limitations of claim 2.

It would have been obvious at the time the invention was made to a person having

ordinary skill in the art that the disclosure of Horstman (the ABSTRACT; FIG. 1, FIG.

4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows all the elements and limitations of claim 2, and it would have been obvious to modify and interpret the disclosure of <u>Horstmann</u> cited above as implicitly showing all of the elements and limitations of claim 2, because modification and interpretation of the cited disclosure of <u>Horstmann</u> would have provided means to *"retrieve advertisements from an advertisement serve and to display them to the user. . . ."* (see <u>Horstmann</u> (col. 2, ll. 1-10)), based on the motivation to modify <u>Horstmann</u> where the *"advertisements are varied to retain the interest of the user. . . ."* (See <u>Horstmann</u> (col. 2, ll. 5-10)).

As per claim 3, <u>Horstman</u> (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows "A method for the presentation of advertisements, comprising: providing exposure of an advertising message to a plurality of viewer computers over a computer network; recording at said server a plurality of actions entered into ones of said viewer computers, said actions made in response to said advertising message; [and] providing bonus exposure of said advertising message to said plurality of viewer computers based on said plurality of actions."

<u>Horstmann</u> lacks an explicit recitation of claim 2 even though Horstmann implicitly shows all elements and limitations of claim 2.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of <u>Horstman</u> (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows all the elements and limitations of claim 3, and it would have been obvious to modify and interpret the disclosure of <u>Horstmann</u> cited above as implicitly showing all of the elements and

limitations of claim 3, because modification and interpretation of the cited disclosure of

Horstmann would have provided means to *"retrieve advertisements from an*

*advertisement serve and to display them to the user. . . ."* (see Horstmann (col. 2, ll. 1-

10)), based on the motivation to modify Horstmann where the *"advertisements are varied*

*to retain the interest of the user. . . ."* (See Horstmann (col. 2, ll. 5-10)).

As per claims 4-7, Horstmann shows the method of claim 3 and subsequent base claims

depending from claim 3.

Horstman (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole

document) implicitly shows all elements and limitations of claims 2-7.

Horstmann lacks explicit recitation of some elements of claims 2-7, even though

Horstmann implicitly shows same.

Official Notice is taken that both the concepts and the advantages of the elements and

limitations of dependent claims 2-7 were notoriously well known and expected in the art at the

time of the invention, because it would have been obvious at the time the invention was made to

a person having ordinary skill in the art that the disclosure Horstman (the ABSTRACT; FIG. 1,

FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows the elements and

limitations of claims 2-7 which are not explicitly recited in Horstman; and it would have been

obvious to modify and interpret the disclosure of Horstman cited above as implicitly showing all

of the elements and limitations of claims 2-7, because modification and interpretation of the cited

disclosure of Horstmann would have provided means to *"retrieve advertisements from an*

*advertisement serve and to display them to the user. . . ."* (see Horstmann (col. 2, ll. 1-10)),

based on the motivation to modify <u>Horstmann</u> where the *"advertisements are varied to retain the interest of the user. . . ."* (See <u>Horstmann</u> (col. 2, ll. 5-10)).

Independent claim 8 is rejected for substantially the same reasons as independent claim 3.

As per claims 9-12, <u>Horstmann</u> shows the method of claim 8 and subsequent base claims depending from claim 8.

<u>Horstman</u> (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows all elements and limitations of claims 9-12.

<u>Horstmann</u> lacks explicit recitation of some elements of claims 9-12, even though <u>Horstmann</u> implicitly shows same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of dependent claims 9-12 were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure <u>Horstman</u> (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows the elements and limitations of claims 9-12 which are not explicitly recited in <u>Horstman</u>; and it would have been obvious to modify and interpret the disclosure of <u>Horstman</u> cited above as implicitly showing all of the elements and limitations of claims 9-12, because modification and interpretation of the cited disclosure of <u>Horstmann</u> would have provided means to *"retrieve advertisements from an advertisement serve and to display them to the user. . . ."* (see <u>Horstmann</u> (col. 2, ll. 1-10)), based on the motivation to modify <u>Horstmann</u> where the *"advertisements are varied to retain the interest of the user. . . ."* (See <u>Horstmann</u> (col. 2, ll. 5-10)).

Independent claim 13 is rejected for substantially the same reasons as independent claim 8.

As per claims 14-17, Horstmann shows the method of claim 13 and subsequent base claims depending from claim 13.

Horstman (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows all elements and limitations of claims 14-17.

Horstmann lacks explicit recitation of some elements of claims 14-17, even though Horstmann implicitly shows same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of dependent claims 14-17 were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure Horstman (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows the elements and limitations of claims 14-17 which are not explicitly recited in Horstman; and it would have been obvious to modify and interpret the disclosure of Horstman cited above as implicitly showing all of the elements and limitations of claims 14-17, because modification and interpretation of the cited disclosure of Horstmann would have provided means to *"retrieve advertisements from an advertisement serve and to display them to the user. . . ."* (see Horstmann (col. 2, ll. 1-10)), based on the motivation to modify Horstmann where the *"advertisements are varied to retain the interest of the user. . . ."* (See Horstmann (col. 2, ll. 5-10)).

Independent claim 18 is rejected for substantially the same reasons as independent claim 13.

As per claims 19-27, Horstmann shows the method of claim 18 and subsequent base claims depending from claim 18.

Horstman (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows all elements and limitations of claims 19-27.

Horstmann lacks explicit recitation of some elements of claims 19-27, even though Horstmann implicitly shows same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of dependent claims 19-27 were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure Horstman (the ABSTRACT; FIG. 1, FIG. 4; col. 2, ll. 1-40; col. 3, ll. 60-67; and whole document) implicitly shows the elements and limitations of claims 19-27 which are not explicitly recited in Horstman; and it would have been obvious to modify and interpret the disclosure of Horstman cited above as implicitly showing all of the elements and limitations of claims 19-27, because modification and interpretation of the cited disclosure of Horstmann would have provided means to *"retrieve advertisements from an advertisement serve and to display them to the user. . . ."* (see Horstmann (col. 2, ll. 1-10)), based on the motivation to modify Horstmann where the *"advertisements are varied to retain the interest of the user. . . ."* (See Horstmann (col. 2, ll. 5-10)).

Additionally, in regards to the independent claims and their subsequent dependent claims,

Gerace discloses providing a predetermined number of advertising impressions (Fig. 5b and col

15, lines 11-20 and below):

"(51) Each sponsor has one or more ad packages maintained by respective Ad Package

Objects 33b of the sponsor. In each Ad Package Object 33b (FIG. 5b) there is indicated the

sponsor ID, start and end dates and times, and pricing of the ad packages. .The pricing may be

dependent on the number of times the ad is viewed by users (i.e., a "hit"), number of times a

user selects to view more information from the ad (i.e., a "click through") and/or the number of

times an actual order is generated. Pricing by the number of hits and number of click throughs

by exact numbers or maximum numbers is indicated in the Ad Package Object 33b. Thus Ad

Package Objects 33b serve as billing entities for the program 31 administrator. Also Ad

Package Object 33b records the number of hits and click throughs as tracked/monitored during

user operation of program 31" (col 12, lines 6-21).

Gerace further discloses that additional number of advertising impressions are shown,

beyond a predetermined number, based on the actions or responses of the user:

"(87) To ensure that sponsors achieve the optimal result from the ads they place,

program 31 combines regression analysis with the above weighting technique to achieve real-

time, automatic optimization as discussed previously. Under this auto-targeting system, an ad

package is shown to general users. After a large number (e.g., 10,000) hits, program 31 runs a

regression on a subject Ad Package Object 33b to see what characteristics are important, and

who (type of user profile) the ad appeals to most. Program 31 then automatically enters

weighting information based on that regression to create a targeted system and runs the

advertisement (Ad Package Object 33b) again in front of this new targeted group. Program 31

then runs a regression every 10,000 hits, for example, including a group of 500 general people

as a control, and adjusts the weighting. This continues until the Ad Package is exhausted

(i.e., the number of hits and click throughs are achieved)" (col 18, lines 10-26).

Also, McElfresh discloses presenting advertising based on considerations of the

performance of the advertisement as well as the cost of the advertisement and that different

advertisements can have different costs associated with them:

"[0013] An ad server device is also used which queries the system for information about

each particular user. The bins of information are used to calculate a click-through-percentage for

each of the various ads available, based upon an analytical method which includes, among other

things, parameters relating to the user's information, the categorized bins of data, and the prior

performance information for a particular ad. This system will allow multiple bins to be used for

a performance calculation without adversely affecting the speed of the calculation. If an ad is

new to the system, a performance estimation is made which will allow convergence toward the

true performance percentages through subsequent click-throughs and related calculations for that

ad. A set of ads is then returned by the ad server for display to a particular user on the contacted

website and associated webpages. The performance calculation for each ad, along with its price-

per-click, are used to determine placement of the ads on a website for optimum click-through

occurrences and generation of revenue.

[0033] In yet another embodiment, the ads can also be sorted and displayed according to

a method which multiplies the calculated click-through-percentage times the cost-per-click for

each ad. Under this method, the cost that the advertiser pays for each individual click-through on

an ad will factor into the placement of the ad on the webpage. A more expensive ad with a

moderate click-through-percentage might earn a more prominent position than an ad with a

high click-through-percentage, but having a low price-per-click. If the multiplied result of the

two factors produces a higher number, than the revenue generated from display of that particular

ad will also be higher. Hence, such an ad will be displayed in more prominent position on the

webpage in order to encourage more click-throughs by the user. Webpages arranged according

to this method have been found to generate at least three times the revenue per page

over webpages having randomly placed ads".

McElfresh also discloses advertising costs with the advertising risk on the advertiser (cost

per impression) and the risk on the content presenter (cost per action or cost per click through):

"[0037] In order for the optimizer system to have ready access to a large store of ads, an

ad/content placement database 118 is provided for storing a plurality of ads, which might be used

for possible display. The ad/content placement database 118 might contain, for example,

information about each ad contract, e.g. price per impression, price-per-click-through, constraints

on pages or positions where the ad may be placed, and/or constraints on demographic variables

which must hold for the ad to be presented. The database 118 might also contain information

associated with different page layouts, e.g. the number of banner or ad spots available".

McElfresh further discloses adjusting the pricing of advertising based on success rate of

advertising:

"[0043] The information would also serve to demonstrate the success rate, and thereafter

aid in setting the pricing structure of ads, in order for the network provider to further

increase revenues".

Zustak discloses adjusting advertising prices based on types and performance of advertising as well as reducing advertising prices to better accommodate the advertiser:

"[0066] It is contemplated that the ability to present advertisements in a variety of ways to the user will impact the business methods of the service providers and/or networks so that the charges (made from the service provider or network to the advertisers) associated with presentation of advertisements can be impacted by the type of advertisement presented. Moreover, with experience and testing, it can be determined how the effectiveness of various types of advertisements compare so that fee structures and times for the various advertisements can be factored into the business model. For example, as previously noted, a 30 second conventional advertisement might be as valuable as a 5 minute banner advertisement or a 20 minute watermark. Thus, charges for advertisements can be adjusted to provide availability to businesses having smaller amounts of funds to spend on advertisement. Consider for example, a pool of 5 local advertisers that might advertise for one minute each as a banner advertisement at substantially reduced prices. Many variations are possible without departing from the present invention".

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add McElfresh's performance and cost considerations when determining which advertising to present and Zustak's adjusting the pricing of advertising costs to better accommodate an advertiser to displaying ads to Horstmann's displaying ads to retain the interest of the user and charging for advertising. One would have been motivated to do this in order to present advertising that does well and better accommodate advertisers.

### *Response to Arguments*

3.     Applicant's arguments with respect to claims 3-28 have been considered but are moot in

view of the new ground(s) of rejection.  Please particularly note the additional citations and prior

art added at the section beginning with, "Also, McElfresh discloses presenting advertising based

on considerations. . .".

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims

that are being rejected with the prior art.  Also, although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims.  See *In re Van*

*Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).  And, Examiner notes that claims are

given their broadest reasonable construction.  See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664

(Fed. Cir. 2000).

Examiner notes that while specific references were made to the prior art, it is actually

also the prior art in its entirety and the combination of the prior art in its entirety that is being

referred to.  Also, one cannot show nonobviousness by attacking references individually where

the rejections are based on combinations of references.  See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### *Conclusion*

The following prior art made of record and not relied upon is considered pertinent to

applicant's disclosure:

a) Merriman (2002/0099600):

"[0011] As used herein, the terms "advertising server" and "advertisement

server" are used interchangeably to refer to a server that selects an

advertisement for display to a user. The invention is embodied in an automated

computer system with a predictive model that has any and/or all of the

following process functionality:

[0012] 1. Estimating the performance of particular direct advertisements using

a predictive model

[0013] 2. Selecting a direct advertisement or group of Advertisements that are

estimated to perform optimally from a pool of direct advertisements

[0014] 3. Delivering the selected direct advertisements to a medium (e.g. a

web page or a newspaper)

[0015] 4. Monitoring a feedback loop to determine if the user responded to the

direct advertisement

[0016] 5. Updating the predictive model based on the user's response

[0017] 6. Calculating the actual performance of a particular Direct Response

Advertisement after a statistically significant sampling period of user

responses

[0018] 7. Replacing poorly performing advertisements with those estimated to

perform better

[0019] 8. Repeating steps 1 to 7 above in an iterative process so that the

media provider has exploited scarce media in an optimal manner

[0020] 9. Providing reports and usage patterns to the advertiser and the media

provider";

b) McCarthy (6,904,408):

"(125)The ad <u>cost</u> per lead or <u>cost</u> per click may be verified and rates for ads may be set based on the targeted audience and the responsiveness of the audience. Vendors make competitive claims about how effective the systems are at prediction consumer responses to future ad campaign";

c) Hagen (20020120506):

"[0346] <u>Charge</u> for First <u>Tier of Ads</u> (1104)

[0347] This "array variable" should contain the fees for the first group of ads posted by a registered end user. The number of items in this array should be exactly the same as the number of items in the Ad Duration Choices array above. The first item in the array below will be the cost for the first group of ads posted by an end user for the duration contained in the first item in the Record Duration Choices array above. For example, if the first item in that array is 30 (Ad displayed for 30 days), then the first item here should be the charge for Ads posted for 30 days. This will only be charged if the administrator turned on the Charge for Posting variable. Do NOT include dollar signs or any other currency symbol in front of these values, which should be numeric values only. Each value should be listed on a separate line.

[0348] Charge for each Additional Ad (1105)

[0349] This "array variable" should contain the <u>fees for Ads</u> posted by a

registered end user who has already posted a number of <u>Ads</u> equal to the number

that administrator set above in the First <u>Tier of Ads</u> variable. The number of

items in this array should be exactly the same as the number of items in the Ad

Duration Choices and First Ad Cost arrays above. The first item in the array

below will be the <u>cost for an Ad</u> posted by an end user (who has already passed

the first <u>tier pricing</u> level) for the duration contained in the first item in

the <u>Ad</u> Duration Choices array above. For example, if the first item in that

array is 30 (Ad displayed for 30 days), then the first item here should be the

charge for Ads posted for 30 days. This will only be charged if the

administrator has turned on the Charge for Posting variable. Do NOT include

dollar signs or any other currency symbol in front of these values, which

should be numeric values only. Each value should be listed on a separate line";

d) Abdel-Moneim (6,782,375):

"(3)   Companies, such as ValueClick, Inc., provide a <u>performance</u>-based

<u>advertising on a cost-per-click (CPC)</u> basis. Subscribers to ValueClick pay as

a function of the number of times their banner advertisements are clicked on.

For example, a vendor may pay the site hosting the banner $0.12 to $0.15 each

time a user selects the banner";

e) Main (20020133399):

"[0005] These several types of contracts are generally priced at different

rates. Even within the same type of contract, <u>rates</u> usually vary depending on

a number of factors including, for example, <u>ad</u> showing times, location of <u>ad</u>

<u>impressions, advertisers'</u> demand, etc. This type of <u>rate or pricing structure,</u>

i.e., having different <u>rates</u> for the same commodity, is commonly known as

differential <u>pricing</u>. Typically, these ad rates are predetermined based on

market research and they generally do not vary within a particular sale period

until the updated ad rates are published";


      f) Murray (20040104926):

"[0043] One advantage of the subject invention is that it allows for two-way

communication to be established between the user interacting with the layer 20

and a provider transmitting a video signal 40 having the media stream 14 and

the layer 20. Referring to FIG. 9, the video signal 40 is illustrated as

including the media stream 14 as a movie 42, a channel logo 26 to be imposed

over the movie 42, a channel guide feature 44, and the layer 20. The provider

can then detect how often the objects 12 are selected and this in turn would

allow them to <u>adjust the cost of advertising</u> within the media stream 14.

Further, the collection of the user data may be retained for future interaction

and may even allow the provider to tailor the user-selectable regions 18 to the

individual user based upon past selections. The user-selectable regions 18

that are selected may also be tracked and transmitted to either the provider or

the producer of the object 12 for instantaneous feedback of the marketing and

advertising";


g) Eldering (6,324,519):

"(43)   FIG. 6 illustrates two pricing schemes, one for content/opportunity

provider based pricing 970, which shows increasing cost as a function of

correlation.  In this pricing scheme, the higher the correlation, the more the

content/opportunity provider 160 charges to air the advertisement.

(44)   Content/opportunity provider based pricing 970 presents a pricing scheme

in which the charge for presenting an advertisement to a consumer increases as

a function of the degree of correlation of the advertisement with the consumer.

For advertisements which are more correlated with the consumer and are thus

more likely to be successful in terms of the sale of an item related to the

advertisement, the price is higher than for advertisements which show a

relatively low degree of correlation with the consumer.

(45)   FIG. 6 also illustrates consumer based pricing 960, which allows a

consumer to charge less to receive advertisements which are more highly

correlated with their demographics and interests.  Consumer based pricing 960

can be used to allow consumers to preferentially receive advertisements which

are highly correlated with their demographic and product preference profiles.

As illustrated by consumer based pricing 960 in FIG. 6, the consumer may charge

to view and advertisement, but can charge less for advertisements which are

highly correlated with their profile, and thus are likely to be of more

interest.

16. The method of claim 7, wherein said recognizing an opportunity is performed by the subscriber and said providing the correlation includes providing the correlation and a target price for the advertisement opportunity, the target price being inversely proportional to the correlation.

17. The method of claim 7, wherein said recognizing an opportunity is performed by a content/opportunity provider and said providing the correlation includes providing the correlation and a target price for the advertisement opportunity, the target price being directly proportional to the correlation".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Arthur Duran
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9/13/05